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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2011-3266

**SHANNON LEIGH BUCKINGHAM,
aka SHANNON LEIGH BAILEY
3809 Wildrose Glen
Escondido, CA 92025**

A C C U S A T I O N

Vocational Nurse License No. VN 192259

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 27, 2000, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 192259 to Shannon Leigh Buckingham, also known as Shannon Leigh Bailey (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 of the Vocational Nursing Practice Act.

5. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2878 of the Code states:

6 The Board may suspend or revoke a license issued under this chapter [the
7 Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the
following:

8

9 (f) Conviction of a crime substantially related to the qualifications, functions,
10 and duties of a licensed vocational nurse, in which event the record of the conviction
shall be conclusive evidence of the conviction.

11

12 (j) The commission of any act involving dishonesty, when that action is related
13 to the duties and functions of the licensee.

14

15 10. Section 2878.6 of the Code states:

16 A plea or verdict of guilty or a conviction following a plea of nolo contendere
17 made to a charge substantially related to the qualifications, functions and duties of a
18 licensed vocational nurse is deemed to be a conviction within the meaning of this
19 article. The board may order the license suspended or revoked, or may decline to
20 issue a license, when the time for appeal has elapsed, or the judgment of conviction
21 has been affirmed on appeal or when an order granting probation is made suspending
the imposition of sentence, irrespective of a subsequent order under the provisions of
Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty
and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
the accusation, information or indictment.

22 REGULATORY PROVISIONS

23 11. California Code of Regulations, title 16, section 2521, states:

24 For the purposes of denial, suspension, or revocation of a license pursuant to
25 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered to be substantially related to the qualifications,
27 functions or duties of a licensed vocational nurse if to a substantial degree it
28 evidences present or potential unfitness of a licensed vocational nurse to perform the
functions authorized by his license in a manner consistent with the public health,
safety, or welfare. Such crimes or acts shall include but not be limited to those
involving the following:

1 (a) Procuring a license by fraud, misrepresentation, or mistake.

2 (b) A conviction of practicing medicine without a license in violation of
3 Chapter 5 of Division 2 of the Business and Professions Code.

4 (c) Violating or attempting to violate, directly or indirectly, or assisting in or
5 abetting the violation of, or conspiring to violate any provision or term of Chapter
6 6.5, Division 2 of the Business and Professions Code.

7 (d) Aiding or assisting, or agreeing to aid or assist any person or persons,
8 whether a licensed physician or not, in the performance of or arranging for a violation
9 of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and
10 Professions Code.

11 (e) Conviction of a crime involving fiscal dishonesty.

12 (f) Any crime or act involving the sale, gift, administration, or furnishing of
13 "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the
14 Business and Professions Code.

15 12. California Code of Regulations, title 16, section 2522 states:

16 When considering a) the denial of a license under Section 480 of the Business
17 and Professions Code, b) the suspension or revocation of a license on the ground that
18 a licensee has been convicted of a crime, or c) a petition for reinstatement of a license
19 under Section 2787.7 of the Business and Professions Code, the Board in evaluating
20 the rehabilitation of an individual and his or her present eligibility for a license, will
21 consider the following criteria:

22 (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

23 (2) Actual or potential harm to the public.

24 (3) Actual or potential harm to any patient.

25 (4) Overall disciplinary record.

26 (5) Overall criminal actions taken by any federal, state or local agency or court.

27 (6) Prior warnings on record or prior remediation.

28 (7) Number and/or variety of current violations.

(8) Mitigation evidence.

(9) In case of a criminal conviction, compliance with terms of sentence and/or
court-ordered probation.

(10) Time passed since the act(s) or offense(s) occurred.

(11) If applicable, evidence of proceedings to dismiss a conviction pursuant to
Penal Code section 1203.4.

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1 (12) Cooperation with the Board and other law enforcement or regulatory
2 agencies.

3 (13) Other rehabilitation evidence.

4 **COSTS**

5 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(January 19, 2012 Conviction for Falsely Reporting an Emergency on January 15, 2012)**

11 14. Respondent has subjected her license to disciplinary action under sections 490 and
12 2878, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
13 related to the qualifications, functions, and duties of a licensed vocational nurse. The
14 circumstances are as follows:

15 a. On or about January 19, 2012, in a criminal proceeding entitled *People of*
16 *the State of California v Shannon Leigh Bailey*, in El Dorado County Superior Court, case number
17 P12CRM0064, Respondent was convicted on her plea of nolo contendere of violating Penal Code
18 section 148.3, subdivision (a), falsely reporting an emergency, a misdemeanor. The court
19 dismissed an additional count of violating Penal Code section 148.5, subdivision (a), false report
20 of a criminal offense, pursuant to a plea agreement.

21 b. As a result of the conviction, on or about January 19, 2012, Respondent
22 was granted summary probation for 24 months, and she was committed to the custody of the
23 county sheriff for 10 days, with credit for 10 days. Respondent was ordered to participate in
24 Anger Management Level Three, pay fines, fees, and restitution, and comply with probation
25 terms.

26 c. The facts that led to the conviction are that on or about the afternoon of
27 January 15, 2012, deputies from the El Dorado County Sheriff's Office responded to a call placed
28 by Respondent claiming she was the victim of domestic violence in progress. Respondent told

1 the 9-1-1 operator that her husband was intoxicated and throwing items around their residence,
2 that he slapped and hit Respondent, and he threw a drinking glass at her. The deputies, believing
3 this was an emergency situation, responded with lights and sirens. Deputies made contact with
4 Respondent and her husband separately. They each gave different versions of events.
5 Respondent continued to claim that her husband threw a drinking glass at her; when she ducked,
6 it hit the mirror near the bed, shattering it. The investigation revealed that Respondent got angry
7 at her husband and threw a hairbrush at him, which broke the mirror. Respondent reported to the
8 deputies that she was told by the district attorney's office that she would not be able to get a
9 restraining order against her husband unless a crime had actually occurred. Respondent admitted
10 to the deputies that she had hoped her report would lead to her husband's arrest and removal from
11 the home. Respondent was arrested for domestic battery, false reporting of a crime, and false
12 reporting of an emergency.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Commission of an Act Involving Dishonesty)**

15 15. Respondent is subject to disciplinary action under section 2878, subdivision (j) of the
16 Code in that on or about January 15, 2012, Respondent made false statements to law enforcement
17 officers to have her husband arrested for domestic violence, as described in paragraph 14, above.

18 **DISCIPLINARY CONSIDERATIONS**

19 16. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
20 to California Code of Regulations, title 16, section 2522, Complainant alleges:

21 a. On or about December 11, 2010, in violation of a valid protective order,
22 Respondent went the residence of a family member, stood in their driveway, and yelled threats
23 and profanities. Respondent left a note in the driveway addressed to the victim's neighbor.
24 Respondent was later contacted at her residence by the El Dorado County Sheriff's Office who
25 described Respondent as having the odor of alcoholic beverage about her person, and her speech
26 was slurred. Respondent was arrested for violation of a protective order. Respondent told the
27 deputy that she did not feel she did anything wrong, that she is the victim, and that she would
28 likely go to the family member's house again.

1 b. In a letter to Respondent dated April 27, 2011, an Enforcement Analyst from
2 the Board admonished Respondent for engaging in unlawful conduct. Because Respondent was
3 not convicted of a crime in connection with the arrest, the Board advised Respondent that they
4 would not pursue disciplinary action. Respondent was warned that further substantiated reports
5 that she engaged in similar behavior or violated the law may result in disciplinary action against
6 her license.

7 17. Complainant further alleges the following:

8 a. On or about April 30, 2011, in violation of a valid protective order, Respondent
9 went the residence of a family member and pounded on the front door. The family member and a
10 witness observed Respondent leave a package on a chair on the front porch, then drive away.
11 Deputies from the El Dorado County Sheriff's Office made contact with Respondent on her cell
12 phone; she admitted she knowingly violated the protective order. Respondent was arrested after
13 she arrived at her residence.

14 b. In a letter to Respondent dated September 2, 2011, an Enforcement Analyst
15 with the Board admonished Respondent for her third arrest in less than one year. Respondent was
16 advised that her actions were indicative of a lack of judgment and professionalism required of a
17 licensed vocational nurse. Respondent was warned that further substantiated reports that she
18 engaged in similar behavior or violated the law may result in disciplinary action against her
19 license.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
4 issue a decision:

5 1. Revoking or suspending Vocational Nurse License Number VN 192259, issued to
6 Shannon Leigh Buckingham, also known as Shannon Leigh Bailey;

7 2. Ordering Shannon Leigh Buckingham to pay the Board of Vocational Nursing and
8 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
9 pursuant to Business and Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11
12 DATED: **FEB 01 2013**



13 TERESA BELLO-JONES, J.D., M.S.N., R.N.
14 Executive Officer
15 Board of Vocational Nursing and Psychiatric Technicians
16 Department of Consumer Affairs
State of California
Complainant

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